

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION
NO. 5:09-CR-330-1H

UNITED STATES OF AMERICA

v.

ANDRE A. WATERMAN,
Defendant.

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ORDER

This matter is before the court on defendant's motion to suppress evidence seized from his vehicle during a police checkpoint. Following an evidentiary hearing held on September 7, 2010, Magistrate Judge David W. Daniel filed a Memorandum and Recommendation (M&R) recommending that defendant's motion be denied. Defendant has filed objections to the M&R, and the government has not responded. This matter is ripe for adjudication.

Defendant contends that Judge Daniel erred in recommending denial of his motion to suppress because the checkpoint violated the Fourth Amendment. Defendant argues that the checkpoint was impermissible because (1) the primary purpose of the traffic stop was general crime control as opposed to roadway safety; and (2) the checkpoint was not reasonable.

"In determining the constitutionality of a checkpoint, the court must inquire into both the primary purpose and the reasonableness of the checkpoint." United States v. Henson, 351 Fed. App'x 818, 820 (4th Cir. 2009). Traffic checkpoints set up for

general crime prevention are not permissible, but a license checkpoint aimed at promoting roadway safety is consistent with the Fourth Amendment if it is reasonable based on the individual circumstances. Id.

The evidence in this case establishes not only that the primary purpose of the checkpoint was to verify drivers' licenses but also that the checkpoint was reasonable. "States have a vital interest in ensuring that only those qualified to do so are permitted to operate motor vehicles." Delaware v. Prouse, 440 U.S. 648, 659 (1979). The checkpoint here was designed to and did, in fact, directly serve that interest.

The court has carefully reviewed the magistrate judge's M&R, defendant's objections and other documents of record and is convinced that the recommendation of the magistrate judge is, in all respects, in accordance with the law and should be approved. Accordingly, the court hereby adopts the recommendation of the magistrate judge as its own. For the reasons stated in the M&R, the defendant's motion suppress is DENIED.

This 18th day of November 2010.



MALCOLM J. HOWARD

Senior United States District Judge

At Greenville, N.C.